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[1971](#) [1972](#) [1973](#) [1974](#) [1975](#) [1976](#) [1977](#) [1978](#) [1979](#) [1980](#) [1981](#) [1982](#) [1983](#) [1984](#) [1985](#) [1986](#) [1987](#)
[1988](#) [1989](#) [1990](#) [1991](#) [1992](#) [1993](#) [1994](#) [1995](#) [1996](#) [1997](#) [1998](#) [1999](#) [2000](#) [2001](#) [2002](#) [2003](#) [2004](#) [2005](#)

Internal Revenue Service
Revenue Ruling

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Rev. Rul. 76-443

1976-2 C.B. 149

Section 501

IRS Headnote

Noncommercial educational television programs. A nonprofit organization that makes facilities and equipment available to the general public for the production of noncommercial educational or cultural television programs for communication to the public via public and educational channels of a commercial cable television company qualifies for exemption under section 501(c)(3) of the Code.

Full Text

Rev. Rul. 76-443

Advice has been requested whether the nonprofit organization described below, which otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is operated exclusively for educational purposes.

The organization was formed for the purpose of making available to the general public facilities and equipment for the production of television programs intended for communication to the public via the public and educational access channels of a commercial cable television company. The organization accepts applications from individuals and groups who wish to use its facilities and equipment to produce programs for broadcast over the access channels.

The organization screens the applications to ensure that the programs to be produced will be of an educational or a cultural nature. Advertising material designed to promote the sale of commercial products or services and endorsements of candidates for political office are prohibited under Federal Communications Commission regulations on any of these access channels.

Additionally, the organization does not accept applications involving programs that support or oppose specific legislation, and, in instances where a particular viewpoint is to be advocated, the organization screens the applications to ensure that the programs will present a full and fair exposition of the pertinent facts so as to permit an individual or the public to form an independent opinion or conclusion, and will not be the mere presentation of unsupported opinion.

Usually, the organization collects a nominal fee from persons who use its equipment and facilities. However, no application is denied because of the applicant's inability to pay. The organization receives most of its support from government and foundation grants and contributions from the general public. Its board of directors is composed of individuals with extensive experience in broadcasting and the visual arts.

The organization is informally affiliated with, but does not control and is not controlled by, the commercial cable television company. Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for educational purposes.

Section 1.501(c)(3)-1(d)(3) of the Income Tax Regulations provides that the term "educational," as used in

section 501(c)(3) of the Code, relates to the instruction of the public on subjects useful to the individual and beneficial to the community. An example of an educational organization described in the regulations is one whose activities include public discussions, forums, lectures, panels and other similar programs. Such programs may be on radio or television.

Rev. Rul. 66-220, 1966-2 C.B. 209, holds that a nonprofit corporation organized and operated exclusively for educational purposes to operate a noncommercial educational broadcasting station presenting educational, cultural and public interest programs is exempt from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 67-342, 1967-2 C.B. 187, holds that a nonprofit organization which produces educational films concerning a particular subject and which disseminates its educational material to the public by means of commercial television may qualify for exemption under section 501(c)(3) of the Code where the films are presented in a noncommercial manner.

Rev. Rul. 76-4, 1976-1 C.B. 145, holds that a nonprofit organization that produces and distributes free (or at small cost-defraying fees) educational, cultural, and public interest programs for public viewing via public-educational channels of commercial cable television companies is operated exclusively for educational purposes and is exempt from Federal income tax under section 501(c)(3) of the Code, and that any private benefit to the commercial cable television companies is outweighed by the direct benefit to the general public.

These Revenue Rulings clearly indicate that an organization may achieve its educational purposes through the production of television programs, regardless of whether the programs are to be broadcast over the airwaves or over a cable system, so long as the programs are presented in a noncommercial manner. The absence of commercial advertising is a key factor in determining the noncommercial nature of the programming activity. With regard to programs prepared for cable television, the Federal Communications Commission regulations prohibit cable operators from commercially advertising on their educational or "public access" channels.

By providing members of the general public with the opportunity to produce television programs of an educational or a cultural nature for viewing on the public access channels of a commercial cable television company, in the manner described above, the organization is operating exclusively for educational purposes. Accordingly, it is exempt from Federal income tax under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the District in which is located the principal place of business or principal office of the organization. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.